

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Robert Tebelman,

Case No. 3:10 CV 2271

Petitioner,

O R D E R

-vs-

JUDGE JACK ZOUHARY

Timothy Brunsman, Warden

Respondent.

This Court has reviewed the Report and Recommendation (“R&R”) of the Magistrate Judge filed January 30, 2012 (Doc. 15). The R&R recommends this Court deny the Petition because under 28 U.S.C. § 2254(d), the state court’s decision was not an unreasonable application of clearly established federal law, and because Petitioner’s other claims are not cognizable under habeas (Doc. 15 at 21–41). Under the relevant statute, 28 U.S.C. § 636(b)(1):

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

The failure to file objections within the time frame set forth in the statute constitutes a waiver of *de novo* review by the district court. *See United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *Thomas v. Arn*, 474 U.S. 140 (1985).

Petitioner's deadline for filing objections was March 20, 2012. It is now March 23, 2012, and Petitioner has yet to file objections. The R&R accurately states the facts and law, and this Court adopts it in its entirety. Accordingly, the Petition is denied and this action is dismissed pursuant to 28 U.S.C. § 2243. Further, because Petitioner has not made a substantial showing of the denial of a constitutional right, this Court finds there is no basis on which to issue a certificate of appealability. 28 U.S.C. § 2253.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

March 23, 2012